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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
P01404US3

In re Application of: Bolich et al.

Application No.: 10/698,763

Filed: October 31, 2003

For: FLUID COLLECTION DEVICE WITH CAPTURED RETRACTABLE NEEDLE

The owner*, MDC Investment Holdings, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,641,555 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.


1. ☒ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney or agent of record. Reg. No. _____

Paul S. Evans, Executive Vice President, MDC

Signature



Typed or printed name

2/7/08

Date

(801) 951-1078

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: MDC Investment Holdings, Inc.

Application No./Patent No.: 10/698,763 Filed/Issue Date: October 31, 2003

Entitled: **FLUID COLLECTION DEVICE WITH CAPTURED RETRACTABLE NEEDLE**

MDC Investment Holdings, Inc., a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/Kevin B. Laurence/

Signature

Kevin B. Laurence

Printed or Typed Name

February 8, 2008

Date

801-578-6932

Telephone number

Attorney for MDC Investment Holdings, Inc.

Title

ASSIGNMENT

Docket No. P01404US3

WHEREAS, Thor Halseth, hereinafter referred to as ASSIGNOR, is a named inventor of inventions entitled: "FLUID COLLECTION DEVICE WITH RETRACTABLE NEEDLE" described and claimed in the following patent applications: United States Patent Application Nos. 60/065,348 filed November 12, 1997; 60/081,135 filed April 9, 1998; 60/084,814 filed May 8, 1998; 09/191,044 filed November 12, 1998; and 09/685,247 filed October 10, 2000; and International Patent Application No. PCT/US98/24104, filed November 12, 1998;

WHEREAS, MDC INVESTMENT HOLDINGS, INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware, and engaged in business at Delaware Trust Building Suite 200, Wilmington, DE United States 19801, hereinafter referred to as ASSIGNEE, is desirous of acquiring the said inventions and any and all applications for Letters Patent and any and all Letters Patent of the United States and foreign countries that may be issued therefor;

NOW, THEREFORE, the parties hereto, intending to be legally bound, agree that, in consideration of good and valuable consideration paid to ASSIGNOR by ASSIGNEE, the receipt of which is hereby acknowledged, ASSIGNOR has sold, assigned and set over and hereby does sell, assign and set over, unto ASSIGNEE, its successors and assigns, his or her entire right, title and interest for, to and within the United States and all foreign countries, including but not limited to Australia, Brazil, Canada, China, India, Japan, Mexico, Poland and the countries that are members of the European Union, in and to the aforesaid inventions, including the right to claim priority to the above-referenced applications in any foreign applications and in and to any and all Letters Patent which may be issued therefor in the United States and in any and all foreign countries.

And ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue any and all Letters Patent of the United States to ASSIGNEE, its successors and assigns, as the owner of all right, title and interest therein.

And for said consideration, it is hereby covenanted and agreed that at the request and expense of ASSIGNEE, its successors and assigns, ASSIGNOR will execute any further papers and do such other acts and things as may be necessary and proper to permit ASSIGNEE, its successors and assigns, to procure Letters Patent for said inventions in the United States and in such foreign countries as ASSIGNEE, its successors and assigns may elect, and vest the full title thereto in ASSIGNEE, its successors and assigns.

IN WITNESS WHEREOF, this Assignment has been executed on the day and month indicated below.

Date

10-30-01

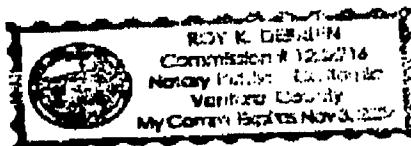
Signature

THOR HALSETH

STATE OF CALIFORNIA

COUNTY OF Ventura

On 10/30/01 before me, the undersigned, a notary public, personally appeared Thor Halseth who proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to this instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.
Witness my hand and official seal.



Rudy K. Desjardins
Notary Public

PATENT
REEL: 012949 FRAME: 0959